

REMARKS

This Application has been carefully reviewed in light of the Final Office Action dated September 15, 2008 (“*Office Action*”). Claims 1-31 are pending, and the Examiner rejects all pending claims. Applicant respectfully requests reconsideration and favorable action in this case.

I. Rejection Under 35 U.S.C. § 101

The Examiner rejects Claims 11-20 under 35 U.S.C. § 101 because computer programs are claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs, are not physical “things.” In particular, the Examiner argues that “an *interface* and an *agent* are considered to be software and are therefore deemed to be non-statutory.” *Office Action*, p. 3. Applicant respectfully disagrees and submits that an “interface” and an “agent” are not limited to software. With regard to an interface, Applicant’s specification states that “interface 42 may include any suitable combination of hardware and/or logic for interacting with other components.” Specification, p. 12. With regard to an agent, Applicant’s specification states that “exemplary functional elements for an agent 40 . . . includ[e] an interface 42, a description 44, a knowledge base 46, a plan 48, and a plan processing engine 50.” Specification, p. 10. Neither the claimed interface nor the claimed agent are limited to software. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 11-20.

II. Rejection Under 35 U.S.C. § 103

The Examiner rejects Claims 1-31 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2008/0010105 issued to Rose et al. (“*Rose*”) in view of U.S. Patent Application Publication No. 2006/0287897 issued to Sobalvarro, et al. (“*Sobalvarro*”). Applicant respectfully traverses the rejection and submits that *Rose* and *Sobalvarro*, whether taken alone or in combination, fail to teach or suggest each and every limitation of the claims.

Consider Applicant’s independent Claim 1, which recites:

A method for dynamic service scheduling comprising:
identifying a template specifying a plurality of events;

- determining a plurality of consumer descriptors;
- accessing a remote service directory having service descriptors for each of a plurality of services;
- filtering the services from the service directory based on the service descriptors, the events, and the consumer descriptors to determine potential ones of the services for fulfilling the events;
- querying each of the potential services for additional service descriptors;
- filtering the potential services based on the additional service descriptors, the events, and the consumer descriptors to determine selected ones of the services for fulfilling the events;
- identifying service links for accessing the selected services;
- modifying the template to associate the service links with the events;
- determining whether each of the events in the template has an associated service link; and
- when each of the events in the template has an associated service link, presenting the template for acceptance.

Among other aspects, *Rose* and *Sobalvarro*, whether taken alone or in combination, fail to teach or suggest: (1) identifying a template specifying a plurality of events; and (2) modifying the template to associate the service links with the events, as Claim 1 requires.

A. The proposed combination fails to teach or suggest identifying a template specifying a plurality of events.

Claim 1 requires identifying a template specifying a plurality of events. Applicant's specification describes the claimed template as a tool for scheduling services to fulfill the events that is refined over a series of one or more iterations. Specification, p. 8. As teaching the claimed template, the *Office Action* continues to point to *Rose*, figure 5A and additionally points to *Rose*, figure 6A. *Office Action*, p. 2. *Rose*'s figure 5A teaches a web home page that merely links to a number of other web sites. *Rose*, ¶ 53. *Rose*'s figure 6A teaches a web home page for the restaurant super-community that allows an internet user to search restaurants by submitting a search request. *Rose*, ¶¶ 55-56. *Rose*'s web home pages, however, fail to teach or suggest "identifying a template specifying a plurality of events," as Claim 1 requires. *Sobalvarro* fails to remedy the deficiencies of *Rose*.

Independent Claims 11, 21, and 31 include limitations that, for substantially similar reasons, are not taught by *Rose* and *Sobalvarro*. Because *Rose* and *Sobalvarro* do not teach or suggest every element of independent Claims 1, 11, 21, and 31, Applicant respectfully requests reconsideration and allowance of Claims 1, 11, 21, and 31 and their respective dependent claims.

B. The proposed combination fails to teach or suggest modifying the template to associate the service links with the events.

Claim 1 requires “modifying the template to associate the service links with the events.” As teaching these aspects, the *Office Action* points to various portions of *Sobalvarro*, stating:

Sobalvarro teaches an itinerary for a short weekend with a hypertext link. Sobalvarro also teaches a package for flight, car rental, dinner reservations and show tickets with hypertext links to each of the services for the event, and allowing the user to purchase the itinerary (see Figures 2E-2F). Further Sobalvarro teaches a number of package offerings with round trip air fare, hotel accommodations, car rental and show tickets (0100, 0107, also see Figure 2D, 3B, 10).

Office Action, p. 5. The *Office Action* also points to *Sobalvarro*, Abstract and paragraph 100, and argues that *Sobalvarro*’s package displays may give the consumer the option of adding on optional components. *Office Action*, p. 3. In the Abstract, *Sobalvarro* explains that its products or services are grouped according to an affinity algorithm and may be “reviewed and approved or selected by human operators using the back end interface before being offered for sale on the sales interface.” Abstract. In paragraph 100, *Sobalvarro* teaches that its package displays may give the consumer the option of adding on optional components. ¶ 100. The *Office Action*’s argument, however, does not change the fact that *Sobalvarro*’s package offerings are fixed and cannot be modified. Accordingly, *Sobalvarro*’s package offerings cannot teach or suggest modifying anything, much less “modifying the template to associate the service links with the events,” as Claim 1 requires. *Rose* fails to remedy the deficiencies of *Sobalvarro*.

Even assuming, for argument’s sake, that *Sobalvarro* were to teach modifying its package offerings, the *Office Action* still does not present a legally sufficient argument demonstrating obviousness. Since the *Office Action* relies on *Rose*’s web page as teaching the claimed template, *Sobalvarro* would have to teach modifying *Rose*’s web page for the *Office Action*’s rejection to stand; there is no such teaching. The *Office Action* fails to provide any reason for modifying *Rose*’s web page to include *Sobalvarro*’s package offerings. In fact, Applicants submit that it would be illogical to modify *Rose*’s template to include *Sobalvarro*’s package offerings, as the combination would render *Rose*’s template inoperable. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the

references are not sufficient to render the claims *prima facie* obvious. MPEP §2143.01 (citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). Further, the Federal Circuit has repeatedly warned against using the applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art. *See, e.g., Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902,907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

Independent Claims 11, 21, and 31 include limitations that, for substantially similar reasons, are not taught by *Rose* and *Sobalvarro*. Because *Rose* and *Sobalvarro* do not teach or suggest every element of independent Claims 1, 11, 21, and 31, Applicant respectfully requests reconsideration and allowance of Claims 1, 11, 21, and 31 and their respective dependent claims.

CONCLUSION

Applicant has made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of this Application. If the Examiner feels that a telephone conference or an interview would advance prosecution of the Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant

Kurt M. Pankratz

A handwritten signature in black ink, appearing to read 'Kurt M. Pankratz', with a long horizontal flourish extending to the right.

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